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9 Debtor-in-Possession
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UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO DIVISION

In re DANIEL MAJOR EDSTROM,
Debtor-in-possession.

) CASE NO.: 12-29353-B-11
)
) CHAPTER 11
)

) A.P. NO. 13-02132-B

DANIEL MAJOR EDSTROM, and all others
similarly situated,

) DC NO. LDH-2
)

Plaintiffs,

) **DECLARATION OF DANIEL**
) **EDSTROM IN SUPPORT OF**
) **PLAINTIFFS OPPOSITION TO**
) **DEFENDANT G&P ENTERPRISES,**
) **LLC'S MOTION TO DISMISS**
) **PLAINTIFFS FIRST AMENDED**
) **COMPLAINT;**

v.

AUBURN LAKE TRAILS PROPERTY
OWNERS ASSOCIATION A CALIFORNIA
CORPORATION; ALLIED TRUSTEE
SERVICES A CALIFORNIA
CORPORATION, a Fictitious or Ghost
Entity; G&P ENTERPRISES A
CALIFORNIA LIMITED LIABILITY
COMPANY; and DOES 1-100,

) Hearing:

) Date: October 29, 2013

) Time: 9:32 a.m.

) Ctrm.: 32

) Dept: B
)

Defendants.

) Hon. Thomas C. Holman

) 501 I Street, 6th Floor, Sacramento,

) California 95814, Tel.: (916) 930-4473
)
)

I, DANIEL MAJOR EDSTROM, declare:

1 1. I am the Plaintiff and the Debtor-in-possession in the above-entitled action. I
2 have personal knowledge of the matters set forth herein. If called upon to testify as to these
3 matters, I could and would competently testify to these matters.

4 2. I am President and Senior Securitization Analyst for DTC Systems, Inc., as well
5 as a Senior Securitization Analyst consultant for the Garfield Firm and attorney Neil F. Garfield.
6 In the course of my business I provide research, analysis and opinion to attorneys across the
7 country in regards to notes, security instruments, assignments, grants, substitutions of trustee,
8 loan closings, negotiable instruments, guarantors, sureties, securitization vehicles, trusts and
9 more as described below. I am not an attorney.

10 3. My area of expertise is in the field of securitization. My qualifications and
11 background have been added as Exhibit A to this declaration and I respectfully refer the Court to
12 this document and fully incorporate it herein by this reference.

13 4. Briefly, my area of expertise, based upon my knowledge, training and experience
14 is in the field of information technology as a software architect, systems architect, database
15 architect and web architect. In the course of my career I have acquired the ability to examine
16 complex business documents and translate them into documents that can be understood by non-
17 technical individuals. I have experience taking complex distributed systems, business
18 requirements and models and reverse engineering them into easier to understand documents and
19 models that are used by non-technical individuals.

20 5. I have significant experience with the Fair Debt Collections Practices Act, the
21 California Rosenthal Act and analyzing complex financial engineering transactions. This
22 experience was made relevant to this case when, in April of 2012 I received communications
23 from Auburn Lake Trail Property Owners Association ("ALT") and their agent G&P Enterprises
24 LLC ("G&P").

25 6. I am a resident of the ALT community and familiar with the Second Restated
26 Declaration of Covenants, Conditions and Restrictions of Auburn Lake Trails ("CC&R's"). I
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1 acquired my property located at 2690 Brown Bear Court Cool, CA 95614 (“**Subject Property**”),
2 together with my non-filing spouse. The property Legal Description and APN number is:

3 LOT 885, AS SHOWN ON THE “MAP OF AUBURN LAKE
4 TRAILS UNIT 4”, FILED MAY 8, 1970, IN BOOK E OF MAPS,
5 PAGE 61, EL DORADO COUNTY RECORDS.
6 ASSESSOR’S PARCEL NUMBER 073-141-03-100.

7 7. I received a communication from G&P Enterprises LLC dated April 17, 2012
8 (“**Initial Communication**”). This Initial Communication was mailed through the United States
9 postal service and contained my personal identifying information and my personal financial
10 information for my member account with ALT. The first page of the Initial Communication
11 stated on the first page in a combination of upper case and bold type as follows: “THE FULL
12 AMOUNT OF **\$1,340.54** IS DUE NO LATER THAN 05-17-2012 BEFORE 4:30 PM. IF
13 PAYMENT IS NOT RECEIVED BY THAT DATE, THE ASSOCIATION SHALL PURSUE
14 RECOVERY AGAINST YOU BY CIVIL ACTION IN SMALL CLAIMS COURT, NON-
15 JUDICIAL FORECLOSURE, JUDICIAL FORECLOSURE, AND/OR ANY OTHER
16 AVAILABLE LEGAL REMEDIES, AND YOU WILL BE RESPONSIBLE FOR ANY AND
17 ALL ADDITIONAL COSTS AND FEES.” At the time the communication was sent I did not
18 owe ALT \$1,340.54. The Initial Communication did not contain the name Allied Trustee
19 Services, Inc. anywhere. The Initial Communication did not contain the name G&P Enterprises
20 LLC anywhere.

21 8. Auburn Lake Trails Property Owners Association Board of Directors are voted in
22 every year, and every year they ratify and publish a “STATEMENT OF SIGNIFICANT
23 POLICIES”, such as the one dated May 1, 2012 in the 2012-2113¹ BUDGET INSERT to the
24 ALT Trail Views newsletter published by the ALT Property Owners Association on April 2012
25 Vol. XXXVIII No. 10 (“**May 2012 ALT Insert**”).

26 9. The May 2012 ALT Insert shows the Collections Policy, titled “Delinquent
27 Assessment Collection Policy Statement” (hereinafter “**Collections Policy**”). The Collections

28 ¹ Note that the Collections Policy is for years 2012-2013. The years shown (2012-2113) are a scrivener’s error.

1 Policy is substantially the same for years 2007, 2008, 2009, 2010, 2011, 2012 and 2013. At the
2 time the Adversary Proceeding was filed, ALT is operating under the 2012-2013 Collections
3 Policy.

4 10. The Collections Policy includes the following statement: "Therefore, the Board of
5 Directors with regards to all delinquent assessment accounts has enacted the following
6 procedures". Every year the Board of Directors, and each of them, ratifies the "Delinquent
7 Assessment Collection Policy Statement". The "Delinquent Assessment Collection Policy
8 Statement" states, inter alia, in paragraph 5: "If any portion of any such assessment or late charge
9 remains unpaid sixty (60) days after the original due date thereof, the account will be referred to
10 collection, whereby Allied Trustee Services, Inc. ("**Allied**") will be presented with a Declaration
11 of Default detailing the amounts then delinquent together with a \$75 collection administration
12 charge added."

13 11. On April 18, 2013 I filed the above captioned Verified Adversary Proceeding.

14 12. On April 19, 2013 ALT was served the summons and adversary proceeding.

15 13. On April 19, 2013 G&P was served the summons and adversary proceeding.

16 14. On May 17, 2013 ALT filed a motion to dismiss for failure to state a claim, or in
17 the alternative for a more definite statement.

18 15. On May 20, 2013 G&P filed a motion to dismiss adversary complaint for failure
19 to state a claim.

20 16. On July 23, 2013 the motions to dismiss came for hearing. The Court required
21 that I file an amended Adversary Proceeding with a more definite statement.

22 17. On August 25, 2013 I filed a First Amended Adversary Proceeding.

23 18. Defendants Auburn Lake Trails Property Owners Association and G&P
24 Enterprises, LLC both filed motions to dismiss my First Amended Adversary Proceedings on
25 September 6, 2013.

26 19. On October 7, 2013 I once again reviewed Proof of Claim 4-1 ("POC 4-1") filed
27 in the above captioned bankruptcy by Defendants. POC 4-1 is an older outdated Proof of Claim
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1 form. POC 4-1 does not show whether the signer is the creditor or the creditors authorized agent.
2 POC 4-1 is not signed with a declaration under penalty of perjury. There is no contract attached
3 to POC 4-1. There is no Power of Attorney or agency agreement attached to POC 4-1. A true
4 and correct copy of POC 4-1 is attached to this declaration as Exhibit B.

5 20. I have personal knowledge of the facts surrounding this case and the events as
6 stated in the adversary proceeding.

7 I declare under penalty of perjury under the laws of the United States of America that the
8 foregoing statements are true and correct and that this declaration was made on October 15, 2013
9 in the County of Placer and the City of Auburn, California.

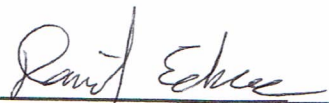
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11 _____
12 DANIEL EDSTROM, declarant
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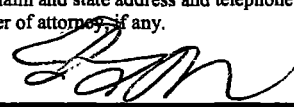
EXHIBIT A

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EXHIBIT B

B 10 (Official Form 10) (04/10)

UNITED STATES BANKRUPTCY COURT EASTERN DISTRICT OF CALIFORNIA		PROOF OF CLAIM
Name of Debtor: DANIEL MAJOR EDSTROM AKA DTC-SYSTEMS		Case Number: 12-29353
<i>NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A request for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.</i>		
Name of Creditor (the person or other entity to whom the debtor owes money or property): AUBURN LAKE TRAILS PROPERTY OWNERS ASSOCIATION		<input type="checkbox"/> Check this box to indicate that this claim amends a previously filed claim. Court Claim Number: _____ (If known) Filed on: _____
Name and address where notices should be sent: C/O ALLIED TRUSTEE SERVICES 990 RESERVE DRIVE SUITE 208 ROSEVILLE, CA 95678	<div style="border: 1px solid black; padding: 5px; text-align: center;"> FILED JUL 25 2012 </div>	
Name and address where payment should be sent (if different from above): UNITED STATES BANKRUPTCY COURT EASTERN DISTRICT OF CALIFORNIA		<input type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars. <input type="checkbox"/> Check this box if you are the debtor or trustee in this case.
Telephone number: _____		
1. Amount of Claim as of Date Case Filed: \$ <u>\$1,334.84</u> If all or part of your claim is secured, complete item 4 below; however, if all of your claim is unsecured, do not complete item 4. If all or part of your claim is entitled to priority, complete item 5. <input checked="" type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principal amount of claim. Attach itemized statement of interest or charges.		5. Amount of Claim Entitled to Priority under 11 U.S.C. §507(a). If any portion of your claim falls in one of the following categories, check the box and state the amount. Specify the priority of the claim. <input type="checkbox"/> Domestic support obligations under 11 U.S.C. §507(a)(1)(A) or (a)(1)(B). <input type="checkbox"/> Wages, salaries, or commissions (up to \$11,725*) earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier – 11 U.S.C. §507(a)(4). <input type="checkbox"/> Contributions to an employee benefit plan – 11 U.S.C. §507(a)(5). <input type="checkbox"/> Up to \$2,600* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use – 11 U.S.C. §507(a)(7). <input type="checkbox"/> Taxes or penalties owed to governmental units – 11 U.S.C. §507(a)(8). <input type="checkbox"/> Other – Specify applicable paragraph of 11 U.S.C. §507 (a)(). Amount entitled to priority: \$ _____ <i>*Amounts are subject to adjustment on 4/1/13 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.</i>
2. Basis for Claim: <u>HOA CC AND R'S</u> (See instruction #2 on reverse side.)		
3. Last four digits of any number by which creditor identifies debtor: <u>1467</u> 3a. Debtor may have scheduled account as: <u>0885</u> (See instruction #3a on reverse side.)		
4. Secured Claim (See instruction #4 on reverse side.) Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information. Nature of property or right of setoff: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other Describe: Value of Property: \$ _____ Annual Interest Rate _____ % Amount of arrearage and other charges as of time case filed included in secured claim, if any: \$ _____ Basis for perfection: _____ Amount of Secured Claim: \$ _____ Amount Unsecured: \$ _____		
6. Credits: The amount of all payments on this claim has been credited for the purpose of making this proof of claim.		
7. Documents: Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. You may also attach a summary. Attach redacted copies of documents providing evidence of perfection of a security interest. You may also attach a summary. (See instruction 7 and definition of "redacted" on reverse side.) DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING. If the documents are not available, please explain:		FOR COURT USE ONLY
Date: <u>7/2/12</u> JESSICA MELVIN, OPERATIONS SPECIALIST 		

ITEMIZED STATEMENT AS OF 05/15/2012

Date: 7/2/2012

T.S. Number: 12-11467

Account Number: 0885

Association: AUBURN LAKE TRAILS PROPERTY OWNERS ASSOCIATION

Owner(s): DANIEL MAJOR EDSTROM AND TERI ANNE EDSTROM

Property Address: 2690 BROWN BEAR TRAIL AKA 2690 BROWN BEAR COURT
COOL, CA 95614**ASSOCIATION ASSESSMENTS, LATE CHARGES, INTEREST AND COSTS OF COLLECTION**

	DESCRIPTION	AMOUNT	FROM	THRU	RATE	TOTAL
5	Monthly Delinquent Assessments @	\$169.00	01/01/2012	05/15/2012	12.00%	\$845.00
4	Late Charges @	\$10.00	01/01/2012	05/15/2012		\$40.00

Interest on Assessments from 01/31/2012 to 05/15/2012 \$13.93

COSTS OF COLLECTION AND ADVANCES

	DESCRIPTION	AMOUNT	FROM	THRU	RATE	TOTAL
1	COLLECTION COST	\$75.00	04/17/2012	04/17/2012	0.00%	\$75.00
1	INTEREST ADJUSTMENT	\$5.15	03/31/2012	03/31/2012	0.00%	\$5.15
1	INTEREST ADJUSTMENT	\$2.04	04/30/2012	04/30/2012	0.00%	\$2.04

Interest on Advances thru 05/15/2012 \$0.00

Total due Association as of 05/15/2012: \$981.12**TRUSTEE'S FEES, COSTS, AND EXPENSES**

DESCRIPTION	TOTAL
SETUP FEE	\$50.00
PRE-LIEN FEE	\$235.00
VESTING VERIFICATION	\$40.00
CERTIFIED - PRE-LIEN	\$28.72

Total due Trustee for Fees and Costs: \$353.72**Total required to reinstate as of: 05/15/2012 \$1,334.84**